

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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AMERICAN EXPRESS FINANCIAL
ADVISORS, INC.,

Plaintiff,

v.

NEIL H. GENDREAU,

Defendant.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil Action No. 4:04-cv-40221

ANSWER TO COUNTERCLAIMS

Plaintiff American Express Financial Advisors, Inc. ("AEFA" or "American Express"), for its Answer to Counterclaims brought by Defendant Neil H. Gendreau ("Gendreau"), admits, denies, and states as follows:

1. AEFA denies that Gendreau is entitled to any damages for an impaired ability to practice as a financial advisor.
2. AEFA denies that Gendreau is entitled to a recovery of legal fees incurred, plus interest, for his defense to the litigation initiated by AEFA.
3. AEFA denies all other claims that Gendreau may have alleged in his Reply and Countercomplaint.
4. AEFA denies that Gendreau is entitled to any relief requested in his Reply and Countercomplaint.
5. AEFA denies all allegations contained in Gendreau's Reply and Countercomplaint not specifically admitted herein.

AFFIRMATIVE DEFENSES

1. Gendreau's Countercomplaint fails, in whole or in part, to state a claim upon which relief can be granted.
2. The Court lacks subject matter jurisdiction over Gendreau's Countercomplaint as the matter must be referred to arbitration.
3. Gendreau's claims are barred in whole or in part by his own misconduct.
4. Any damage or loss sustained by Gendreau, directly or indirectly, was sustained as a result of Gendreau's own actions, fault, or lack of due diligence, or by the actions or fault of others over whom AEFA had no control.
5. Gendreau's claims are barred by reason of Gendreau's own breach of contract and unclean hands.
6. AEFA has not breached any contract with Gendreau.
7. AEFA's actions are justified.
8. Gendreau has failed to mitigate his damages, if any.

WHEREFORE, having fully answered Gendreau's Countercomplaint, AEFA prays for judgment in its favor and against Gendreau, and for its costs incurred in connection with the defense of this matter, including its reasonable attorneys' fees, and for such other relief as the Court deems proper.

Respectfully submitted,
AMERICAN EXPRESS FINANCIAL
ADVISORS, INC.

By its attorneys,



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DATED: November 11, 2004

~~CERTIFICATE OF SERVICE~~
I hereby certify that a true copy of the
above document was served upon the
attorney of record for each other party
by mail and on 11/11/04
